

SEP 05 2024

US DISTRICT COURT  
WESTERN DISTRICT OF NC

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA

MICHAEL LAMAR GAINES

VS

IRREDELL COUNTY SHERIFF'S DEPARTMENT

COMPLAINT NO. 5:24-cv-198-FDW

I. JURISDICTION & VENUE

1. THIS IS A CIVIL ACTION AUTHORIZED  
BY 42 U.S.C SECTION 1983 TO REDRESS  
THE DEPRIVATION, UNDER COLOR OF  
STATE LAW, OF RIGHTS SECURED  
BY THE CONSTITUTION OF THE UNITED  
STATES.

2. THE CLAIM OCCURRED IN IRREDELL  
COUNTY, NORTH CAROLINA.

II. PLAINTIFF

MICHAEL LAMAR GAINES

P.O. BOX 287

STATESVILLE NC 28677

III. IRREDELL COUNTY SHERIFF'S  
DEPARTMENT ARE THE DEFENDANTS.

## IV. FACTS

ON FEBRUARY 6, 2023, THE PLAINTIFF MICHAEL LAMAR GAINES WAS STOPPED BY A IREDELL COUNTY SHERIFF'S DEPUTY FOR PURPORTEDLY DRIVING AN AUDI SUV AT NIGHT WITHOUT HEADLIGHTS. (SEE ATTACHMENT #15.)

PLAINTIFF ADAMANTLY ATTESTS THAT HIS VEHICLE AND ALL OF ITS FACULTIES, NAMELY THE HEAD AND TAILLIGHTS WERE IN PROPER WORKING ORDER DUE TO A PERSONAL VEHICLE INSPECTION DONE BY THE PLAINTIFF PRIOR TO HIM ENTERING HWY 77 AND POLICE ATTEMPTING TO MAKE A TRAFFIC STOP.

THE PLAINTIFF HEREBY REQUESTS A FRANK'S HEARING (PURSUANT TO FRANK'S VS DEL) TO CHALLENGE THE PROBABLE CAUSE OF THE "TERRY" STOP.

A WORKING TAILLIGHT, AS TO BE VIEWED BY DASHCAM, WOULD

ESTABLISH A 4TH AMENDMENT  
CLAIM DUE TO ILLEGAL SEARCH  
AND SEIZURE.

IV. THE FOURTH AMENDMENT TO  
THE U.S CONSTITUTION WHILE  
PURSUANT TO FRANKS v DEP 15  
THE LEGAL BASIS TO THIS  
CLAIM.

ALTHOUGH THIS IS A POST CONVICTION  
CHALLENGE, THE PLAINTIFF IS  
RECEIVING HIS GUILTY PLEA  
DUE TO INEFFECTIVE ASSISTANCE  
OF COUNSEL.

AT THE TIME OF THIS FILING  
THE PLAINTIFF'S SENTENCE  
DUE TO PLEA ~~IS~~ IS LESS  
THAN A WEEK OLD.

### RELIEF

PLAINTIFF REQUESTS A  
FRANKS HEARING TO CHALLENGE  
PROBABLE CAUSE. AND UPON  
A FINDING OF NO P.C. A  
DISMISSAL OF ALL CRIMINAL  
CHARGES. PLAINTIFF WAS SENTENCED  
IN FEDERAL COURT. AND ANY OTHER APPLICABLE  
RELIEF.

DECLARATION OF TRUTH  
UNDER THE PENALTY OF  
PERJURY, I, THE UNDERSIGNED  
ATTESTS THE FOREGOING  
MOTION IS TRUE.

SIGN Michael Gaines  
DATE 9/21/2024